

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 22002 of 2025

**Samyo Center for Special Education & Multiple Therapies & Anr.
Versus
State of West Bengal & Ors.**

For the petitioners	:	Mr. Sukrit Banerjee Mr. Shuvojeet Gupta Mr. S. Abedin Mrs. Chitra Abedin Ms. Pooja Singh
For the State	:	Mr. Bhaskar Prasad Vaisya, Ld. AGP Mr. Ranjan Saha
For the Municipality	:	Mr. Arijit Dey
Heard on	:	28.01.2026.
Judgment on	:	28.01.2026

Raja Basu Chowdhury, J (Oral):

1. The affidavit-of-service filed in Court today is taken on record.
Despite service, the private respondents are not represented.
2. The present writ petition has been filed, inter alia, praying for a direction upon the respondent Nos. 2 and 3 to immediately restrain the private respondent Nos. 4 to 6 from carrying out the demolition and/or construction work at premises no. 105, Gopal Lal Tagore Road, Kolkata - 700036. The petitioners had

previously moved the writ petition which was registered as WPA 26113 of 2023, inter alia, praying for a direction upon the municipality to remove the illegal unauthorized construction at premises No. 105 Gopal Lal Tagore Road, Baranagar, ward No. 27, Kolkata 36.

3. As would appear from the above, the petitioners were primarily aggrieved with the illegal filling up of a portion of the water body that existed in the premises of the private respondents as also with regard to the unauthorized construction. Records reveal that by an order dated 10th January, 2024, a coordinate Bench of this Court noting the grievance of the petitioners and the failure on the part of the municipal authorities to take consequential steps in furtherance to the notice issued under Section 218 (1)(a)(i) of the West Bengal Municipal Act, 1993 (hereinafter referred to as the said Act) had directed the municipality to take steps and to conclude proceedings initiated under Section 218 of the said Act in accordance with law at the earliest. Insofar as the grievance of the petitioners as regards filling up the water body was concerned, since the petitioners had applied before the District Magistrate, leave was granted to the petitioners to follow up the matter with the competent authority to seek necessary relief. Since then, the municipality had given opportunity of hearing to the parties and by a resolution dated 5th August, 2024, the matter was decided by noting that the private respondents

had informed in writing that the old structure situated at the above premises is to be demolished and a new structure is to be constructed as per the approval to be given by the municipality and that the private respondents are willing to construct a protective boundary wall around the pond to ensure that outsiders do not throw garbage in the pond for filling it up.

4. In furtherance to above, the private respondents upon demolishing the existing structure at the above premises had started constructing on the aforesaid property. According to the learned advocate representing the petitioners a G+6 storied building is likely to be come up at the property in question. He would submit that if such an enormous structure is constructed besides the 100 years building owned by the petitioners, it is more likely than not that the petitioners' building would suffer, particularly, noting the fact that the petitioners' building has been constructed on a shallow foundation.
5. Learned advocate for both the municipality and the State are represented in Court today. Learned advocate for the municipality would submit that nothing has been spelt out by the petitioners in any of the representations as regards any illegal construction being carried out by the private respondents. He would submit that the entire cause of action of the petitioners is based on an apprehension that its building might suffer damages though no particulars of such damages had been disclosed. In the light of

the above, no mandatory direction ought to be issued on the municipal authorities.

6. Having heard the learned advocates appearing for the respective parties and noting from the submissions made by the petitioners that a construction is coming up at the adjacent premises pursuant to the valid sanctioned plan, in my view ordinarily, such construction cannot be arrested unless the petitioners are in a position to demonstrate that the aforesaid construction is likely to interfere with the stability of the petitioners' 100 years old existing building. No attempt has been made by the petitioners to support the submissions by carrying out any survey through a survey engineer. There is no report on record, in this regard. No photographs of the petitioners' building developing any crack or suffering any damages has also been disclosed. Further on the basis of the submissions made by the petitioners it is also noted that the piling work at the construction site has already commenced. Thus, in the process as aforesaid if there arises any difficulties in future, it is always open to the petitioners to approach the municipality. The petitioners have however not filed any report by any engineer to demonstrate that the construction would have serious impact on the petitioners' property. Accordingly, at this stage, the Court does not find any reason to interfere. No legal rights of the petitioners have been infringed.

7. The municipality, however, must ensure that the construction that is coming up at the aforesaid premises is in accordance with the sanctioned plan and does not interfere with the rights of the petitioners in any manner.
8. Accordingly, the writ petition stands disposed of without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)

**Sayandeep
A.R. (Court)**